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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/543,042	07/21/2005	Graham Robertson	920602-99890	9184
23644 7590 05/10/2010 BARNES & THORNBURG LLP P.O. BOX 2786 CHICAGO, IL 60690-2786				
EXAMINER GONZALEZ, MADELINE				
ART UNIT 1797		PAPER NUMBER		
NOTIFICATION DATE 05/10/2010		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Patent-ch@btlaw.com

Office Action Summary

Application No.

10/543,042

Applicant(s)

ROBERTSON, GRAHAM

Examiner

MADELINE GONZALEZ

Art Unit

1797

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1.6-10 and 18-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1.6-10 and 18-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

In response to applicant's amendment dated January 20, 2010

Claim Rejections - 35 USC § 102/103

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 9, 18, 22 and 24 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Adams et al. (U.S. 2002/0023883) [hereinafter Adams].

With respect to **claims 1, 18 and 24**, Adams discloses a vibrating machine 200, as shown in Fig. 18, having a screen 190, as shown in Fig. 17A, over which solids flow in a specified direction (see paragraph 0061), the screen having:

- a support structure 191 defining a first rectangular opening and woven wire cloth of orthogonal warp and weft wires (see paragraph 0034);

- the first rectangular opening in the support structure 191 includes a plurality of similarly dimensioned, similarly orientated and regularly arranged smaller rectangular openings or windows, formed by a lattice of struts criss-crossing the first opening;
- wherein the cloth is bonded to the support structure 191, being bonded to the lattice struts as well as the boundary of the first opening (see paragraph 0057), with the cloth extending in a tensioned state across the first opening;
- the cloth has rectangular openings in the weave, as shown in Fig. 11, having a greater number of warp wires 154, 156, per unit length than there are weft wires 152 per unit length; and
- the orientation of the cloth is such that the warp wires 154, 156, extend across the width (i.e. shorter dimension) of the rectangular opening and the weft wires 152 extend across the length (i.e. longer dimension) of the rectangular opening, as shown in Fig. 11;
- wherein the warp wires 154, 156, are also parallel to the width dimension (i.e. the shorter sides) of the smaller rectangular openings, as shown in Fig. 11.

In the alternative, it would have been obvious to provide the screen 153 disclosed by Adams in Fig. 11, with a support frame 191, as shown by Adams in Fig. 17A, in order to support the screen and since this is very common in the art (see paragraph 0072).

With respect to **claims 9 and 22**, Adams discloses wherein the wires are of circular cross-section (see paragraph 0058).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-8, 10, 19-21 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adams (U.S. 2002/0023883).

Claims 6-8, 10, 19-21 and 23 include dimensional limitations, such as cross-sectional area of the warp wires relative to the weft wires, and the size of the wires.

Adams teaches the warp wires, such as 106, having a cross-sectional area greater than the weft wires 102, as shown in Fig. 5A (see paragraph 0063). Adams **lacks** the specific percentages of the cross-sectional area of warp wires relative to the weft wires, and the specific size of the wires.

The specific dimensional limitations claimed by applicant, are considered to be nothing more than a choice of engineering skill, choice or design that a person having ordinary skill in the art would have found obvious during routine experimentation based among other things, on desired accuracy, since the courts have held that where the only difference between the prior art and the claims was a recitation of relative dimensions of

the claimed device and a device having the claimed relative dimensions would not perform differently than a prior art device, the claimed device was not patentably distinct from the prior art device (see *In re Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (FED. Cir. 1984), cert. Denied, 469 U.S. 830, 225 USPQ 232 (1984)).

Response to Arguments

Applicant's arguments filed on January 20, 2010 have been fully considered but they are not persuasive.

In response to applicant's argument that Adams fail to show the orientation if the warp and weft wires in relation to the support: Adams teaches the orientation of the warp and weft wires in the screens shown in Figs. 4-13, and teaches that the screen can have a support structure, as shown in Fig. 17A. The support structure is inherent in the screens. In the alternative, it would have been obvious to provide the screens shown in Figs. 4-13 with a support structure in order to support the screen and since this is very common in the art (see paragraph 0072).

In response to applicant's argument that Adams lacks bonding of a screen to a frame and bonding to lattice struts: Adams teaches the screen bonded to the frame, as shown in Fig. 17A, and the screen bonded to the lattice struts (see paragraph 0057 and 0060).

In response to applicant's argument regarding claimed 18: Applicant indicated that claim 18 has been amended to include that the warp wires all have a greater cross-

sectional are than all the weft wires. This amendment has not been found in claim 18. Furthermore, it would be obvious to provide all the warp wires of a greater cross sectional area than all of the weft wires since the courts have held that where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than a prior art device, the claimed device was not patentably distinct from the prior art device (see *In re Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (FED. Cir. 1984), cert. Denied, 469 U.S. 830, 225 USPQ 232 (1984)).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MADELINE GONZALEZ whose telephone number is (571)272-5502. The examiner can normally be reached on M, W, Th, F- 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Krishnan S Menon/
Primary Examiner, Art Unit 1797

Madeline Gonzalez
Patent Examiner
May 3, 2010